

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ATUL GOEL,

Plaintiff(s),

V.

vCUSTOMER CORPORATION,

Defendant(s).

NO. C06-1508P

ORDER ON MOTION FOR LEAVE
TO AMEND COMPLAINT

The above-entitled Court, having received and reviewed:

1. Motion for Leave to Amend Complaint Dkt. No. 18
2. Defendant's Opposition to Plaintiff's Motion for Leave to Amend Complaint (Dkt. No. 20)
3. Plaintiff's Reply in Support of Plaintiff's Motion for Leave to Amend Complaint (Dkt. No. 21)

and all exhibits and declarations attached thereto, makes the following ruling:

IT IS HEREBY ORDERED that the motion is GRANTED; Plaintiff will be permitted to file an amended complaint adding a claim for willful deprivation of monies owed pursuant to RCW 49.52.050.

Upon reviewing Defendant's Initial Disclosures and preliminary discovery responses, Plaintiff believes Defendant's actions may constitute a violation of RCW 49.52.050. This law permits a recovery of double the wages due, plus costs and attorney's fees, if an employer can be shown to have wilfully withheld wages. RCW 49.50 et seq. Plaintiff wishes to amend his complaint to include this cause of action. Defendant claims an amendment would be futile. The defense argues the withheld wages were the subject of a *bona fide* dispute, and that Defendant "has a genuine belief that Plaintiff is not entitled to" the monies claimed. Opposition, p. 3.

1 Defendant's "genuine belief" is not sufficient to establish the futility of Plaintiff's proposed
2 claim. It will be the function of further discovery and legal argument to determine whether Plaintiff
3 can establish the elements of this cause of action and, if so, whether Defendant can then produce
4 admissible evidence establishing a defense.

5 Permitting Plaintiff to add this claim will cause neither undue prejudice to Defendant nor undue
6 delay to the case, and that the proposed amendment is neither frivolous nor dilatory. The motion for
7 leave to amend the complaint as proposed will be GRANTED.

8 The clerk is directed to provide copies of this order to all counsel of record.

9 || Dated: April 5, 2007

Marsha J. Pechman
Marsha J. Pechman
U.S. District Judge

Marsha J. Pechman
U.S. District Judge

**ORD ON MTN FOR
LEAVE TO AMEND - 2**